

**Senate Government Operations Committee**

**AMENDMENT NO.** \_\_\_\_\_

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**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 1583\***

**House Bill No. 1858**

by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. It is the purpose of this act to promote the health, safety, and welfare of the people of Tennessee by establishing an orderly system of acupuncture certification and to provide a valid, effective means of establishing certification requirements without undue financial burden to the people of Tennessee, through use of a national certifying board which has been established to certify the competency of acupuncturists.

SECTION 2. Tennessee Code Annotated, Title 63, Chapter 6, is amended by adding Sections 3 through 11 as a new part thereto.

SECTION 3. As used in this act, unless the context requires otherwise:

(1) "Acupuncture" means a form of health care developed from traditional and modern Oriental medical concepts that employs Oriental medical diagnosis and treatment, and adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease;

(2) "Board" means the board of medical examiners, created by § 63-6-101;

(3) "NACSCAOM" means the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine;

(4) "NCCA" means the National Commission for the Certification of Acupuncturists;

(5) "Practice of acupuncture" means the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body based upon Oriental

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medical diagnosis as a primary mode of therapy. Adjunctive therapies within the scope of acupuncture may include manual, mechanical, thermal, electrical, and electromagnetic treatment, and the recommendation of dietary guidelines and therapeutic exercise based on traditional Oriental medicine concepts;

(6) "ADS" means a acupuncture detox specialist; and

(7) "NADA" means the National Acupuncture Detox Association.

**SECTION 4.**

(a) It is unlawful to use the designation "certified acupuncturist" without a certificate issued pursuant to this act.

(b) A violation of this section is a Class C misdemeanor.

**SECTION 5. (a) The board shall:**

(1) Issue, suspend, and revoke certificates, collect fees, investigate violations of this act, and otherwise administer the provisions of this act.;

(2) Promulgate, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, rules and regulations necessary to implement the provisions of this act;

(3) Issue advisory opinions interpreting this act;

(4) Expend funds as necessary to carry out the provisions of this act from revenues generated by fees collected under this act and interest earned thereon.

**SECTION 6.**

(a) To receive a certificate pursuant to this part, a person must document to the board:

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(1) Current active status as a Diplomat in Acupuncture of the NCCA;

(2) Successful completion of a three-year post-secondary training program or acupuncture college program which is NACSCAOM credited or in candidacy status or which meets NACSCAOM's standards; and

(3) Successful completion of an NCCA approved clean needle technique course.

(b) The board shall waive the requirements of subsection (a) and shall grant a certificate of acupuncture to an applicant, residing in Tennessee upon the effective date of this act, who presents evidence satisfactory to the board no later than December 31, 1997, of successful completion of a NACSCAOM-approved college program or an NCCA approved apprenticeship or tutorial program.

SECTION 7. A certificate issued pursuant to this part must be renewed every two (2) years. To renew a certificate, an applicant must submit proof of current active NCCA certification in acupuncture.

SECTION 8. The board may deny, suspend or revoke a certificate, require remedial education, or issue a letter of reprimand, if an applicant or a certified acupuncturist:

(1) Engages in false or fraudulent conduct which demonstrates an unfitness to practice acupuncture, including:

(A) Misrepresentation in connection with an application for a certificate or an investigation by the board;

(B) Attempting to collect fees for services which were not performed;

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(C) False advertising, including guaranteeing that a cure will result from an acupuncture treatment; or

(D) Dividing, or agreeing to divide, a fee with anyone for referring the patient for acupuncture services;

(2) Fails to exercise proper control over one's practice by:

(A) Delegating professional responsibilities to a person the acupuncturist knows or should know is not qualified to perform; or

(B) Failing to exercise proper control over unlicensed personnel working with the acupuncturist in the practice;

(3) Fails to maintain records in a proper manner by:

(A) Failing to keep written records describing the course of treatment for each patient;

(B) Refusing to provide a patient upon request records that have been prepared for or paid for by the patient; or

(C) Revealing personally identifiable information about a patient, without consent, unless otherwise allowed by law;

(4) Fails to exercise proper care of a patient, including the exercising or attempting to exercise, undue influence within the acupuncturist/patient relationship by making sexual advances or requests for sexual activity, or making submission to such conduct a condition of treatment;

(5) Displays substance abuse or mental impairment to such a degree

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as to interfere with the ability to provide safe and effective treatment;

(6) Is convicted or pleads guilty or no contest to any crime which demonstrates an unfitness to practice acupuncture;

(7) Negligently fails to practice acupuncture with the level of skill recognized within the profession as acceptable under such circumstances;

(8) Willfully violates any provision of this act or rule of the board; or

(9) Has had a certificate denied, suspended, or revoked in another jurisdiction for any reason which would be grounds for such action in Tennessee.

**SECTION 9.**

(a) Acupuncturists shall use only pre-sterilized, disposable needles in their administration of acupuncture treatments. The use of staples in the practice of acupuncture is prohibited.

(b) Health practices shall include:

(1) Hands shall be washed with soap and water or other disinfectant before handling needles and between treatment of different patients;

(2) Skin in the area of penetration shall be thoroughly swabbed with alcohol or other germicidal solution before inserting needles; and

(3) No certified acupuncturist shall be allowed to practice acupuncture and related techniques without first having passed a nationally recognized clean needle technique course.

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SECTION 10. The board shall set fees relative to applications, certification and renewals of certificates in amounts sufficient to pay all of the expenses of the board directly attributable to the performance of its duties pursuant to the provisions of this act.

**SECTION 11.**

(a) The title "certified acupuncturist" may be used by, and only by, persons certified under this act. Possession of a certificate under this act does not by itself entitle a person to identity himself or herself as a doctor or physician.

(b) Each person certified to practice acupuncture shall post the certificate in a conspicuous location at such person's place of practice.

SECTION 12. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect January 1, 1998, the public welfare requiring it.

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